IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF APRIL,

TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 7691 of 2005

Between:

M/s. Sri Raja Sri Constructions, rep. by its Managing Partner, Smt. Kota Raja Sri, W/o. K.M.V. Prasad, D.No. 43-11-2/20, Sri Sai Residency, Subbalakshmi Nagar, Visakhapatnam-16.

..... PETITIONER

AND

1 The Commissioner, Municipal Corporation of Visakhapatnam,

Visakhapatnam.
2 The Assistant City Planner, Municipal Corporation of Visakhapatnam,

Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ of Mandamus or any other appropriate writ, order or direction, declaring the action of the respondents as illegal and arbitrary and consequently direct the respondents not to demolish the structures and regularize the constructions of the petitioner by leveling penal charges for the deviations made contrary to the existing plan and further direct them to follow the due process of law pass such other order or orders as may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MS.G.ANUPAMA CHAKRAVARTHY

Counsel for the Respondents: Mr.T.S.Venkata Ramana

This Court at the admission stage made the following:

–

–

O R D E R:

The petitioner seeks a writ of Mandamus declaring the alleged action of the respondents in seeking to demolish the structures raised by the petitioner in the premises bearing Door No.44-34-33 at Visakhpatnam as arbitrary and illegal.

The petitioner alleges that the respondents have been taking steps to demolish the structures-in-question, highhandedly without issuing any notice and without following the due procedure as prescribed under the law.

When the matter is taken up for consideration, the learned standing counsel appearing for the respondent-Corporation, under instructions, states that the first respondent has already issued a notice dated 02-04-2005 under Section 452 of the Hyderabad Municipal Corporation Act, 1955, specifying the irregularities committed and calling upon the petitioner to show-cause as to why the structures-in-question which were found to be contrary to G.O.Ms.No.423 MA, dated 31-07-1998, should not be removed. He states that the necessary further steps will be taken following the due process of law.

In view of what has been stated by the learned standing counsel, without going into the merits of the case, the writ petition is disposed of granting liberty to the petitioner to submit appropriate explanation

to the show-cause notice dated 02-04-2005 after the same is served on him. If any such explanation is submitted within the time specified in the notice, the respondents shall consider the same and pass appropriate orders, in accordance with law, and communicate the same to the petitioner. Till such orders are passed, the respondents shall not interfere or demolish the structures-in-question. No costs.

_____

(**G. ROHINI, J**)

Date: 08-04-2005

ghn

To

1 The Commissioner, Municipal Corporation of Visakhapatnam,

Visakhapatnam.
2 The Assistant City Planner, Municipal Corporation of Visakhapatnam,

Visakhapatnam.

3 Two C.D copies.

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.7691 OF 2005

OPERATIVE PORTION (BY WIRE):

In the facts and circumstances of the case, without going into the merits of the case, the writ petition is disposed of granting liberty to the petitioner to submit appropriate explanation to the show-cause notice dated 02-04-2005 after the same is served on him. If any such explanation is submitted within the time specified in the notice, the respondents shall consider the same and pass appropriate orders, in accordance with law, and communicate the same to the petitioner. Till such orders are passed, the respondents shall not interfere or demolish the structures-in-question. No costs.

_____

(**G. ROHINI, J**)

Date: 08-04-2005

Note:

1. Issue wire at party's costs.
2. Please send the bundle to the Court Masters Section after dispatch of the wire order.

B/o

ghn